



APR 29 1941

Supreme Court of the United States

OCTOBER TERM, 1941.

No. ~~1194~~ 85

J. BUCKNER FISHER, Receiver of The First National Bank of
Chattanooga, Tennessee, *Petitioner*,

v.

LOUISE WHITON, Executrix of the Estate of Annie R. Not-
tingham, Deceased;

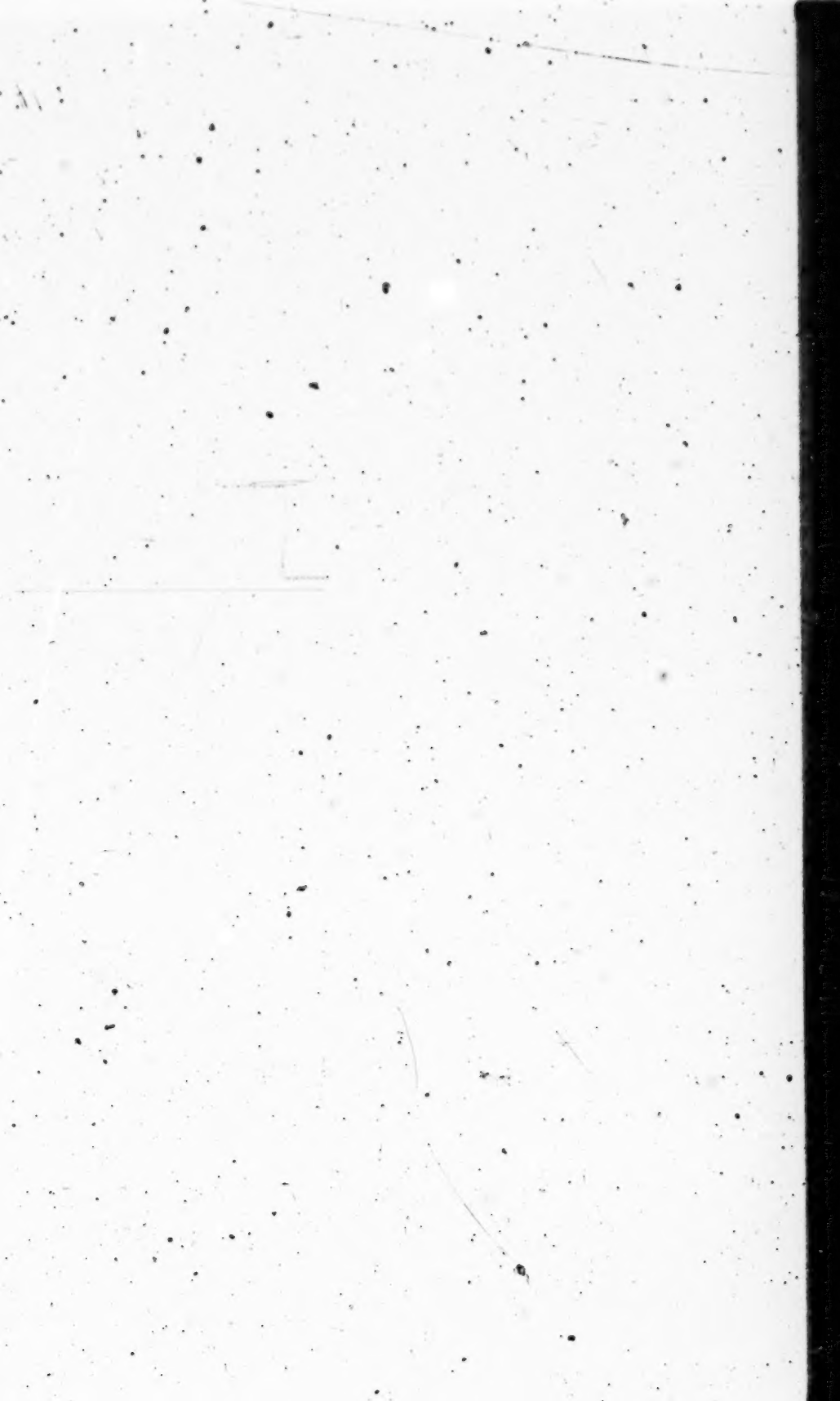
O. B. WUNSCHOW, Executor of the Estate of Mildred Wil-
liams, Deceased;

GEORGE C. MCKENZIE, Receiver and Commissioner for R. A.
LOWERY, J. A. LOWERY and KATHERINE TULLOCK, chil-
dren of CLARA LOWERY; *et al.*

**PETITION FOR WRIT OF CERTIORARI TO COURT OF
APPEALS OF THE STATE OF TENNESSEE.**

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**PETITION FOR WRIT OF CERTIORARI TO COURT OF
APPEALS OF THE STATE OF TENNESSEE.**

*To the Honorable, the Chief Justice and the Associate Jus-
tices of the Supreme Court of the United States:*

Your petitioner, **J. Buckner Fisher**, as Receiver of The
First National Bank of Chattanooga, Tennessee, by direc-
tion of the Comptroller of the Currency of the United
States, respectfully prays that a writ of certiorari issue to
review the judgment of the Court of Appeals of the State
of Tennessee in the above captioned cause (R. 95) entered
August 9, 1941.

OPINIONS AND DECREES OF COURTS BELOW.

The memorandum opinion of the Chancery Court of Hamilton County, Tennessee, (R. 84-87) is not reported. Its decree appears in the record at pages 88-89. The opinion of the Court of Appeals of the State of Tennessee (R. 90-95) is reported in 155 S. W. (2d) 882, and its decree appears in the record at page 95. The order of the Supreme Court of Tennessee denying (without opinion) petition for writ of certiorari appears in the record at page 97.

II.

SUMMARY STATEMENT.

The facts are not in controversy and are disclosed upon the face of the record.

On July 24, 1935, (R. 1-6) Mrs. Annie R. Nottingham, widow of C. C. Nottingham, and sole beneficiary under his will, filed her original bill, as executrix of the Estate of C. C. Nottingham and also in her individual capacity, in the Chancery Court of Hamilton County, Tennessee, against petitioner's predecessor, Charles S. Coffey, as Receiver of the First National Bank of Chattanooga, Tennessee, and against present respondents O. B. Wunschow, Executor of the Estate of Mildred Williams, deceased, and George C. McKenzie, Receiver and Commissioner for R. A. Lowery, J. A. Lowery and Katherine Tullock, children of Clara Lowery; et al., as creditors of or claimants against the estate of said C. C. Nottingham for the purposes, *inter alia*: of establishing priority of her claims to the assets of the estate as against the other creditors and claimants of the estate; for the sale of the real estate to satisfy debts of the decedent's estate; and to require all creditors and claimants to appear in the cause and establish their claims.¹

¹ Paul J. Kent, former Receiver of the Chattanooga National Bank, Chattanooga, Tennessee, was also named party defendant in

The answer and cross bill of petitioner's predecessor, Charles S. Coffey, as receiver of the First National Bank of Chattanooga, filed on August 2, 1935, (R. 6-11) alleged that on January 3, 1934, (R. 8) the Comptroller of the Currency of the United States had appointed said Charles S. Coffey, receiver of said bank, by reason of its insolvency, and that he was still serving as such receiver at the time of the filing of said answer and cross bill. That at the time of the death of said C. C. Nottingham on April 6, 1929 (R. 6) said decedent was the owner of record of certain shares of stock of said First National Bank; that shortly after the qualification of said Annie R. Nottingham as executrix under the will of said C. C. Nottingham, she had sold, from time to time, 400 shares of said stock, leaving a residue of 1380 shares of the par value of \$100 each still belonging to the estate which had not been transferred upon the books of the bank prior to its suspension on January 3, 1934, and that said 1380 shares of stock,—at the time of the filing of the answer and cross bill of said Charles S. Coffey, as receiver, still stood on the books in the name of C. C. Nottingham.

Said Charles S. Coffey, as such receiver, further alleged (R. 8-9):

That on April 19, 1934, the Comptroller of the Currency had levied an assessment against the stockholders

said cause and participated in said proceedings. He was later succeeded in office by your petitioner, J. Buckner Fisher, as Receiver also of said Chattanooga National Bank. (R. 65) The claims on behalf of the Chattanooga National Bank receivership were decided adversely to said receivership by the courts below, upon grounds entirely different from those assigned by the courts below in rejecting the claim of your petitioner, J. Buckner Fisher as Receiver of the First National Bank of Chattanooga, Tennessee. It has been determined, however, for reasons not material here, that review by petition for writ of certiorari on behalf of the Chattanooga National Bank receivership will not be sought, and hence the proceedings in the courts below, insofar as they relate to the claims on behalf of the Chattanooga National Bank receivership, may be disregarded as having no relation to the claims on behalf of the First National Bank receivership now sought to be reviewed by the petition for writ of certiorari in the instant case.

of said First National Bank for 100 per cent of the par value of each and every share of said stock, payable at the office of the receiver on or before May 26, 1934;

That on May 17, 1934, (prior to said due date) the Comptroller of the Currency had extended the time for payment of said assessment, subject to such further order in the premises as he might make;

That on June 19, 1934, the Comptroller of the Currency entered an order extending the time of payment of said assessment to June 26, 1934;

That on June 22, 1934, the time of payment of said assessment was again extended by the order of the Comptroller of the Currency, subject, however, to such further order as he might make in the premises;

That on March 11, 1935, the Comptroller of the Currency entered an order fixing the time of payment of said assessment as April 15, 1935, said assessment to bear interest at the rate of 6 per cent per annum (the legal rate of interest in the State of Tennessee) from and after April 15, 1935, if unpaid on that date;

That on March 13, 1935, said Charles S. Coffey, as receiver of said bank, had given notice of said assessment to each and every stockholder of the bank, including said Annie R. Nottingham as executrix of the estate of said C. C. Nottingham;

That said Annie R. Nottingham as executrix of the estate of C. C. Nottingham, was indebted to said Charles S. Coffey, as such receiver in the sum of \$138,000, with interest thereon from April 15, 1935, and that the assets of said estate were charged with an equitable lien for the payment of said claim and that he was entitled to an accounting from said executrix of all of the assets of the estate which had come into her hands as executrix.

And said Charles S. Coffey, as such receiver, thereupon prayed, *inter alia*, that his said cross bill be sustained as a bill for the administration of the estate of said C. C. Not-

tingham in the Chancery Court of Hamilton County; that all persons having an interest in said estate be required to establish their claims therein; that the case be referred to a Master for appropriate disposition, etc., etc.

On October 5, 1935, said Annie R. Nottingham, as executrix of the estate of C. C. Nottingham, filed her answer (R. 21) to said cross bill of said Charles S. Coffey, receiver, wherein she admitted (insofar as material to the issues here involved) the ownership by said estate of C. C. Nottingham of said 1,380 shares of stock of said bank; that she had been advised and believed that said estate did owe the receiver the sum of \$138,000 by reason of said assessment (although not admitting liability as to interest); that said receiver was entitled to an accounting (R. 23) and that she was willing to submit to the administration of said estate by said Chancery Court of Hamilton County (R. 22; 24).

On April 6, 1937, (R. 59-60) said George C. McKenzie "as special receiver and commissioner for R. A. Lowery * * * (one of the defendants named in said original bill of said Annie R. Nottingham, executrix), filed answer to said cross bill of said Charles S. Coffey as said receiver of said First National Bank, wherein said George C. McKenzie as special receiver etc., objected to the allowance of the claim of said Charles S. Coffey, as such receiver, against the estate of C. C. Nottingham, on the ground that said claim was barred by the provisions of sec. 8225 of the 1932 Code of Tennessee (see Appendix hereof page 17), in that:

Said section required a claim against the estate of a decedent to be filed within "6 months from the date the cause of action thereon accrues" and that inasmuch as said assessment claim of said receiver of said bank had accrued on April 19, 1934 (the date the Comptroller of the Currency had levied said assessment) and said receiver had not filed said assessment claim against the estate of said C. C. Nottingham within 6 months from April 19, 1934, said assessment claim was barred by said sec. 8225 as a claim against said estate of C. C. Nottingham.

On September 8, 1938, the Chancery Court of Hamilton County, by appropriate order duly entered (R. 63) permitted said O. B. Wunschow, as executor of the estate of Mildred W. Williams, deceased, (one of the codefendants named by said Annie R. Nottingham, executrix, in her original bill of complaint) to file a plea (R. 62-63) to the effect that said claim of said Charles S. Coffey, as receiver, against said estate of C. C. Nottingham was barred by the provisions of said sec. 8225 of said Code of Tennessee in that said assessment claim had not been filed against said C. C. Nottingham estate within 6 months from April 1934.

By appropriate order enrolled May 10, 1940, your petitioner, J. Buckner Fisher, was substituted in said proceedings in place of said Charles S. Coffey (resigned) as receiver for said First National Bank. (R. 65)

Thereafter, it appearing that said Annie R. Nottingham had died, said proceedings were, under Tennessee practice, revived, by an order enrolled July 6, 1940, which provided:

"In Chancery Court of Hamilton County

*"Order Admitting Death of Annie R. Nottingham, and
Reviving Cause Against Louise Whiton, Executrix
—Enrolled July 6, 1940*

[Title omitted]

"In this cause it is admitted that complainant and cross defendant, Annie R. Nottingham, has died since the last term of court, and that Louise Whiton is the Executrix of said Annie R. Nottingham, and that all parties to the suit by their respective solicitors admitting said facts, by their consent, this cause is revived against Louise Whiton, as Executrix, and is ordered to stand in the same plight and [fol. 112] condition which it was at the time of the death of said Annie R. Nottingham." (R. 65)

By memorandum opinion filed January 22, 1941, the Chancery Court of Hamilton County held that said assessment claim of your petitioner, as receiver of said First National Bank, against the estate of C. C. Nottingham "ac-

erued at the time first fixed by the Comptroller on *May 23, 1934*,² and not at a future time as insisted by the receiver", and that said claim was barred under the provisions of said section 8225 of the Code of Tennessee inasmuch as the cross bill of the receiver to establish said assessment claim against said estate had not been filed until August 2, 1935, and hence that said suit had not been filed within the period of six months from the date of accrual as required by said section 8225 of said Code. (R. 84, 86, 87). The formal decree of the Chancery Court sustaining said defense of the statute of limitations appears in the Record at pages 88-89.

Exceptions to the foregoing ruling of the Chancery Court were duly filed by your petitioner, as receiver of said bank (R. 89) and in due course appeal was filed in the Court of Appeals of Tennessee wherein your petitioner, as such receiver, assigned as error (R. 89-90) that said assessment had not become due and payable until April 15, 1935, (the last date for payment fixed by the Comptroller of the Currency) (R. 9), and that inasmuch as the cross bill asserting the assessment claim against the estate had been filed August 2, 1935, (R. 6) said claim had been duly asserted within less than the period of six months from the date of accrual thereof (as required by said section 8225 of said Tennessee Code) and hence, that the Chancery Court of Hamilton County had erred in ruling that the same was barred by said statute of limitations.

Under date of August 9, 1941, the Court of Appeals of Tennessee filed an opinion wherein it affirmed the opinion and decision of the Chancery Court and held that said assessment claim of your petitioner, as receiver of First National Bank, was barred under the provisions of said section 8225 of said Tennessee Code. (R. 90).

Petition for writ of certiorari was filed by your petitioner, as receiver of First National Bank of Chattanooga, in the Supreme Court of Tennessee,—

² This date should be May 26, 1934; see record page 8.

"in due course and in accordance with the rules and requirements of the Supreme Court of Tennessee" (R. 103)

including appropriate assignments of error as the basis thereof (R. 96).

The Supreme Court of Tennessee denied the petition for writ of certiorari, without passing upon the merits of the contentions of your petitioner. (R. 97)

III.

THE QUESTION PRESENTED.

Did the receiver's cause of action upon the assessment claim accrue on May 26, 1934, the date first fixed by the Comptroller of the Currency for the payment of said assessment, or did the Comptroller, by appropriate orders from time to time entered, have authority, under the national banking laws, to extend the time of payment to April 15, 1935, the maturity date fixed by the last order of the Comptroller? (R. 8-9)

The cross bill asserting said assessment claim against said estate of C. C. Nottingham was filed on August 2, 1935. (R. 6) Hence, if the Comptroller of the Currency was without authority to extend the date of payment to April 15, 1935, the assessment claim was barred under the provisions of said section 8225 of the Tennessee Code of 1932. If the Comptroller did have authority to make such extensions, the claim was not barred.

IV.

SPECIFICATION OF ERRORS.

The Court of Appeals of the State of Tennessee erred in holding:

(1) That the cause of action of the receiver of the First National Bank of Chattanooga, Tennessee, upon his assessment claim against the estate of C. C. Nottingham, deceased,

accrued on May 26, 1934, the date of payment therefor first fixed by the order of the Comptroller of the Currency and, hence, that the cross bill filed by the receiver on August 2, 1935, (R. 6) against said estate to recover said assessment was barred under the provisions of sec. 8225 of the Tennessee Code of 1932.

(2) That the Comptroller of the Currency,—having fixed May 26, 1934, as the date for payment of said assessment,—was without authority, under the national banking laws, to make orders, from time to time, further extending the date of payment of said assessment, including the order of March 11, 1935, extending the payment date of said assessment to April 15, 1935.

V.

JURISDICTION.

The time for filing petition for writ of certiorari was, by appropriate orders of this Honorable Court, extended to and including April 29, 1942 (R. 102).

Jurisdiction to review the aforesaid judgment of the Court of Appeals of the State of Tennessee is granted by sec. 237(b) of the Judicial Code (U. S. C. Title 28, c. 9, sec. 344(b)) providing for the granting of a writ of certiorari by this Court to review a final judgment or decree of the highest court of a state in which a decision could be had in which a right, title or privilege is claimed under a statute of the United States.

As will more fully hereinafter appear, petitioner, as receiver of said national bank, claims, under the national banking laws, the rights, titles and privileges by him asserted and relied upon in the aforesaid cause by him filed.

The record discloses that the petition for writ of certiorari was filed in the Supreme Court of Tennessee "in due course and in accordance with the rules and requirements of the Supreme Court of Tennessee" (R. 103) and that the Supreme Court denied the petition without passing upon the merits of the case (R. 97). Hence, it follows that the

decree of the Court of Appeals of the State of Tennessee constitutes the final decree of the highest court of the State in which a decision could be had. See: Sections 10627 and 10629, Michie's Tennessee Code of 1932 (Chap. 100, Acts of 1925, Tenn. Legislature) (quoted in Appendix hereof, pp. 16-17); *Bray v. Blue Ridge Lumber Co.*, 154 Tenn. 342, 344, 289 S. W. 504; *Red Top Cab Co. v. Garsides*, 155 Tenn. 614, 298 S. W. 263.

Also see *Mrs. Jesse Miles, et al. v. Illinois Central Railroad Company*, No. 272, October Term 1941, decided March 30, 1942, U. S. . . . ; *Norfolk Turnpike Co. v. Virginia*, 225 U. S. 264, 268-269; *Western Union v. Priester*, 276 U. S. 252, 258; *United Gas Public Service Co. v. Texas, et al.*, 301 U. S. 667.

VI.

FEDERAL QUESTION.

Petitioner's authority, as receiver of First National Bank of Chattanooga, Tennessee,—to collect the assessment, is contained in the national banking laws, including section 192, Title 12, U. S. C. (Appendix hereof page 15); and sections 63, 64, and 66 of Title 12, U. S. C. (Appendix hereof pages 14 to 15).

Said section 66 of Title 12, U. S. C., provides:

"Persons holding stock as executors, administrators, guardians, or trustees, shall not be personally subject to any liabilities as stockholders; but the estates and funds in their hands shall be liable in like manner and to the same extent as the testator, intestate, ward, or person interested in such trust funds would be, if living and competent to act and hold the stock in his own name." (R. S. Sec. 5152)

Section 8225 of the Tennessee Code of 1932 (Appendix hereof page 17) required the claim of petitioner, as receiver, to be asserted or filed against the estate within six months from the date "the cause of action thereon accrued." The question presented (*supra*, p. 8) was whether the cause of action accrued on May 26, 1934, (the

payment date first fixed by the Comptroller) or April 15, 1935, the final date of payment fixed by the Comptroller in his last order of extension; and this question, in turn, involved the authority of the Comptroller to fix a later or future date for payment. It seems clear that this does present a federal question.

In *Rawlings v. Ray*, (1941), 312 U. S. 96, in passing upon a similar question, this court said:

"The question as to the time when there was a complete and present cause of action so that the receiver could enforce by suit the liability imposed by the Comptroller's assessment is a federal question and turns upon the construction of the assessment and the authority of the Comptroller to make it under the applicable federal legislation. (page 98)

"While the assessment was made on November 6, 1935, it was expressly made payable on or before December 13, 1935. Respondent was allowed until that date to pay and prior thereto suit could not be maintained against him. Hence the statute of limitations did not begin to run until December 13, 1935, and the suit was in time." (page 98)

"We find no ground for questioning the authority of the Comptroller in making an assessment to fix a later date for its payment. The federal legislation does not impose or suggest any such limitation upon the exercise of his power. 12 U. S. C. 63, 64, 191, 192. What was done in the instant case appears to be in accord with a practice of long standing." (page 99)

Also, see: *Seabury v. Green*, (1935) 294 U. S. 165, 168; *Rankin v. Barton*, (1905) 199 U. S. 228, 230-232.

VII.

REASONS RELIED ON FOR ALLOWANCE OF WRIT.

Petitioner considers that the writ of certiorari should be granted because:

- (a) The decision of the Court of Appeals for the State of Tennessee that the six months' period of limi-

tation provided for in sec. 8225 of the Tennessee Code commenced to run from the first payable date, rather than the date finally fixed by the Comptroller for the payment of the assessment, appears to be in conflict, in principle, with the decision of this Court in *Rawlings v. Ray*, (1941) 312 U. S. 96; *Rankin v. Barton*, (1905) 199 U. S. 228, 232; *Korbly v. Springfield Institute for Savings*, (1917) 245 U. S. 330, 333; and with the decisions of other Federal courts: *Strasburger v. Schram*, (App. D. C. 1937) 93 F. (2d) 246; *MacPherson v. Schram*, (C. C. A. 5. 1940) 112 F. (2d) 674; and *Schram v. Tobias*, (D. C. E. D. Mich. S. D., 40 F. Supp. 470, 472.

(b) The question presented in the instant case is of substantial importance in that it is, or will be, involved in the liquidation of other national banks now or later placed, in receivership, and an authoritative determination of the question by this court will facilitate the administration of the affairs of these banks by the Comptroller of the Currency.

(c) The decision of the Court of Appeals for the State of Tennessee that the cause of action accrued on the date *first* fixed by the Comptroller for the payment of the assessment, and that the Comptroller was without authority to extend time of payment to a later date, involves an important question of law which has not been but should be settled by this Court.

Changing conditions during liquidation may well indicate to the Comptroller the advisability of further postponing payment of the assessment, in the hope that ultimately it may become unnecessary. Does the Comptroller have this authority?

VIII.

CONCLUSION.

It is submitted that the foregoing discussion and citation of authorities demonstrates that the decision of the court below was erroneous. In the interest of uniformity of decisions applicable to the administration of all insolvent national banks, and in order that the present doubt as to the correct rule of law to follow may be settled, it is urged that this Honorable Court entertain a review of this case on writ of certiorari.

Respectfully submitted,

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APPENDIX.**U. S. C. Title 12, Sec. 64.**

The stockholders of every national banking association shall be held individually responsible for all contracts, debts, and engagements of such association, each to the amount of his stock therein, at the par value thereof in addition to the amount invested in such stock. The stockholders in any national banking association who shall have transferred their shares or registered the transfer thereof within sixty days next before the date of the failure of such association to meet its obligations, or with knowledge of such impending failure, shall be liable to the same extent as if they had made no such transfer, to the extent that the subsequent transferee fails to meet such liability; but this provision shall not be construed to affect in any way any recourse which such shareholders might otherwise have against those in whose names such shares are registered at the time of such failure. (Dec. 23, 1913, c. 6, Sec. 23, 38 Stat. 273.)

U. S. C. Title 12, Sec. 66.

Persons holding stock as executors, administrators, guardians, or trustees, shall not be personally subject to any liabilities as stockholders; but the estates and funds in their hands shall be liable in like manner and to the same extent as the testator, intestate, ward, or person interested in such trust funds would be, if living and competent to act and hold the stock in his own name. (R. S. Sec. 5152.)

U. S. C. Title 12, sec. 63.

The shareholders of every national banking association shall be held individually responsible for all contracts, debts, and engagements of such association, to the extent of the amount of their stock therein, at the par value thereof, in addition to the amount invested in such shares; except that shareholders of any banking association existing on June 22, 1874, under State laws, having not less than

\$5,000,000 of capital actually paid in, and a surplus of 20 per centum on hand, both to be determined by the Comptroller of the Currency, shall be liable only to the amount invested in their shares; and such surplus of 20 per centum shall be kept undiminished, and be in addition to the surplus provided for in this chapter; and if at any time there is a deficiency in such surplus of 20 per centum, such association shall not pay any dividends to its shareholders until the deficiency is made good; and in case of such deficiency, the Comptroller of the Currency may compel the association to close its business and wind up its affairs under the provisions of this chapter relating to dissolution and receivership. (R. S. sec. 5151; Dec. 23, 1913, c. 6, sec. 23, 38 Stat. 273.)

U. S. C. Title 12, sec. 191.

Whenever any national banking association shall be dissolved, and its rights, privileges, and franchises declared forfeited, as prescribed in section 93, or whenever any creditor of any national banking association shall have obtained a judgment against it in any court of record, and made application, accompanied by a certificate from the clerk of the court stating that such judgment has been rendered and has remained unpaid for the space of thirty days, or whenever the comptroller shall become satisfied of the insolvency of a national banking association, he may, after due examination of its affairs, in either case, appoint a receiver who shall proceed to close up such association, and enforce the personal liability of the shareholders, as provided in section 192. (June 30, 1876, c. 156, sec. 1, 19 Stat. 63.)

U. S. C. Title 12, sec. 192.

On becoming satisfied, as specified in sections 131 and 132 of this title, that any association has refused to pay its circulating notes as therein mentioned, and is in default, the

Comptroller of the Currency may forthwith appoint a receiver, and require of him such bond and security as he deems proper. Such receiver, under the direction of the comptroller, shall take possession of the books, records, and assets of every description of such association, collect all debts, dues, and claims belonging to it, and, upon the order of a court of record of competent jurisdiction, may sell or compound all bad or doubtful debts, and, on a like order, may sell all the real and personal property of such association, on such terms as the court shall direct; and may, if necessary to pay the debts of such association, enforce the individual liability of the stockholders. Such receiver shall pay over all money so made to the Treasurer of the United States, subject to the order of the comptroller, and also make report to the comptroller of all his acts and proceedings. * * * (R. S. sec. 5234; May 15, 1916, c. 121, 39 Stat. 121; Aug. 23, 1935, c. 614, sec. 339, 49 Stat. 721.)

Sec. 10629, Michie's Tennessee Code of 1932.

The supreme court, or any judge thereof, shall have the right to require, by certiorari, the removal to that court for review of any case that has been finally determined in the court of appeals, upon a sworn petition, for this purpose filed in the supreme court, which petition shall state the substance of the case to be decided, and shall be accompanied by assignments of error and brief in conformity with such rules as the supreme court may prescribe; and there shall be no other method of review. Upon such writ being granted, the original transcript filed in the court of appeals, and the opinion and judgment of that court shall be filed in the supreme court, and, with said petition, assignments of error and briefs, shall constitute the record in the supreme court, and no further cost bond shall be required therefor. For this purpose, counsel shall have the right to use and file in the supreme court their briefs filed in the court of appeals, making apt references thereto; and no certiorari shall be granted unless the case shall at the same time be set

down for oral argument in the supreme court. Likewise, the supreme court, or one of the judges thereof, may order the issuance of the writ of supersedeas in aid of the certiorari upon such terms and bond as such court or judge may prescribe. Petitions for certiorari, to require the removal of any case from the court of appeals to the supreme court for review, shall be filed in the supreme court within forty-five days after final decree in the court of appeals, including decree upon any application to that court for a rehearing or for different or additional findings; provided, the supreme court, or any of the judges thereof, upon application, may extend such time for filing petitions for certiorari for an additional period not to exceed ninety days after final decree, as above defined, in the court of appeals. (1925, ch. 100, sec. 14, modified.)

Section 10637. Michie's Tennessee Code of 1932. Court of record; effect of judgment; final after thirty days.—The court of appeals is a court of record, and its judgments, unless superseded, reversed, or modified by the supreme court, shall, after expiration of thirty days from final decree, as hereinafter defined, be executed by all necessary and proper writs. (1925, ch. 100, sec. 13, modified.)

Michie's Tennessee Code of 1932 Annotated.

Sec. 8225. Creditors to sue, when. The creditors of deceased persons, whether the former live within or without this state, shall, within eighteen months (which period shall be deemed to include the six months protective period) from the qualification of the executor or administrator, file with the latter their accounts, demands and claims, that are matured or accrued causes of action at the date of such qualification, and bring suit for the recovery thereof, or be forever barred. As to account, demands and claims not so matured or accrued, the period allowable before bar is six months from the date the cause of action thereon accrued.

Sec. 8608. *Against personal representative.* Actions against the personal representatives of a deceased person shall be commenced within eighteen months, including the six months' protective period, after the qualification of the personal representative, if the cause of action accrued in the lifetime of the deceased, or, otherwise, from the time the cause of action accrued. (1789, Ch. 23, sec. 4, modified.)

Sec. 8604. *Time runs from accrual of right, not demand.* When a right exists, but a demand is necessary to entitle the party to an action, the limitation commences from the time the plaintiff's right to make the demand was completed, and not from the date of the demand.

Sec. 8601. *Ten years against guardians, executors, administrators, public officers, and on judgments.* Actions against guardians, executors, administrators, sheriffs, clerks, and other public officers on their bonds, actions on judgments and decrees of courts of record of this or any other state or government, and all other cases not expressly provided for, shall be commenced within ten years after the cause of action accrued.

